

LABOR NEWS

A Publication of the ARKANSAS DEPARTMENT OF LABOR

Mike Huckabee, Governor

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James L. Salkeld, Director



AGENCY BOARD MEMBERS - OUR UNSUNG HEROES

There are citizens in Arkansas who go above and beyond the call of duty every month by serving on various boards and commissions. These people do not receive a paycheck for their services, and are even on occasion called upon to spend the night away from home to execute their duties.

The duties of these boards vary somewhat but basically consist of:

- Formulating, amending and repealing rules and regulations and standards for their particular area;
- Revoking or suspending of licenses for cause;
- Advising department staff;
- Assisting in license examination, etc.

There are four such boards affiliated with the Arkansas Department of Labor and the Director of Labor serves as a member on each of these boards.

The Arkansas Department of Labor would like to express their sincere appreciation to these board members for their years of

dedicated work for the State of Arkansas.

Boiler Advisory Board

Richard Mille'
Stephen Case
Larry Wolf
Bill McCoy

Board of Electrical Examiners

Gary Ferrell
J.D. Chastain
Robert Thompson
Hugh Brewer
Paul Brown
Danny King
Ed Carrington
Sammie Cox

Elevator Safety Board

Kenneth Dryden
Allen Gaulding
Reed Myers
Steve Kinzler

Prevailing Wage Advisory Committee

Robert Laman
Dennis Donahou
Tony Ellis
Edward Finney
Patrick Hays
David Marsh
Lewis May
James C. Aldridge Sr.
Steve Schaeffer

LITTLE ROCK OSHA OFFICE CONCERNED ABOUT EXCAVATION SAFETY

By Paul Hansen, Area Director,
U.S. Department of Labor

The Occupational Safety and Health Administration has established both a National Emphasis Program and a Local Emphasis Program in the area of excavation safety. The majority of those inspections are based on complaints or referrals.

During the past three months, the Little Rock Area Office has inspected several excavation sites, and has either issued or will issue citations in all cases. In four of the inspections, the employer representative presented certificates of training, either from AGC or Trench Safety, a private consulting and training firm.

When an employer has knowledge of existing hazards, and, through training and/or experience is aware of what those hazards are, and does not take action to abate those hazards, the documentation for a willful violation is present. The penalties for a willful violation can be severe, and in the event of a fatality, the case may be referred to the U. S. Department of Justice for prosecution under criminal statutes.

If an employer desires training on excavation safety, he/she may **Cont. on page 2 – See OSHA**



LABOR DEPARTMENT 2003 ANNUAL REPORT READY

Have you hired an electrician lately? Or gotten on an amusement ride, elevator or escalator anywhere in the state? Or maybe wondered if your employer was paying you properly? If so, then you've been impacted by the Arkansas Department of Labor, because these are just a few of the varied service areas we handle for Arkansas citizens. The following is a compilation of more of the services performed by the agency during Fiscal Year 2002-2003.

OSHA consultants conducted 589 safety and health visits at the request of the inspected workplaces and they cited 5,736 safety and health hazards. Of these, 4,432 were serious hazards.

The AOSH Division, which is responsible for enforcement of occupational safety and health laws for state and local government employees, conducted 562 consultation visits to public schools, technical schools, colleges and universities, state agencies, and other public sector entities, where they cited 1,901 serious violations. The division also inspected 2,187 amusement rides at 251 different facilities citing 880 violations. The division also trained 1,068 employees in workplace safety and health.

Preventing Occupational Injuries and Illnesses seminars were held in Jonesboro, Little Rock, Crossett, Fort Smith, Russellville, El Dorado, Batesville, Springdale, Ashdown, and West Memphis

during this fiscal year with nearly 1,415 participants attending, up from the 1,129 who enrolled last year. These seminars were co-sponsored by our department, the U.S. Department of Labor and Arkansas Workers' Compensation Commission, and in some cases with additional sponsorship from local safety associations.

The department presented 69 safety awards to Arkansas companies across the state who excelled in safety and health this year.

Over 800 companies borrowed safety and health videos free of charge for their employees to view from our Film and Video Libraries located across the state.

The Mine Safety and Health Administration held 219 classes with 2,150 participants attending, compared to 179 classes for 1,780 participants last year. First Aid and CPR classes were among the many MSHA classes held for Arkansas' miners. The Mine Office in Fort Smith held 22 blasting classes for 170 miners compared to 16 classes for 128 miners in 2002.

Our Safety Training and Education Division held 558 classes across the state with 4,278 Arkansas workers in attendance, up from last year's 3,831 enrollees.

The Boiler Inspection Division, where statistics were up nearly across the board, issued 6,623 boiler operator licenses and processed 23,868 inspection reports.

The Board of Electrical Examiners issued 10,572 licenses to Industrial Maintenance, Journeyman, Master, Contractors, Air-Conditioning and Registered Apprentice Electricians. This is up from 10,088 licenses issued last year.

Our Elevator Safety Division issued 3,917 certificates of operation across the state, also up from 3,621 issued last year.

Our Wage and Hour investigators collected over \$32,499 for violations of the minimum wage and overtime laws and more than doubled their collection of child labor civil money penalties with a total of \$100,902 reported. They conducted 2,298 inspections of workplace records and cited 672 violations.

The Wage Claims Division processed claims that returned \$32,385 to Arkansas workers for unpaid wages, severance pay, sick pay, vacation pay, holiday pay, and unauthorized deductions, commissions, and bonuses.

Investigations by the Prevailing Wage Division resulted in \$44,778 being returned to Arkansas workers in back wages, up from \$17,485 in 2002. The division also issued 453 wage determinations for projects with a total estimated value of \$595,552,543.

Our state mediator participated in 28 contract negotiations and attended 75 other meetings in order to promote peace and harmony in employer/employee relations in Arkansas.

Our Legal Division collected \$89,936 in back wages, up from \$86,792 in 2002. This included \$16,483 in child labor civil money penalties.

Data collected by our OSH/CFOI Division indicated that in 2001, there were 68 workplace fatalities in Arkansas, down from 106 the year before. The division also found there were 5.8 work-related injuries and illnesses reported for every 100 full-time workers in private industry, down for the ninth consecutive year.

If you would like to receive a copy of our 2003 Annual Report, call 682-4537, e-mail jeanette.donahue@mail.state.ar.us or you may access a copy on our website at



OSHA — (contd. from page 1)
contact the Arkansas Department of Labor-OSHA Consultation at (501) 682-4523 or the U.S. Department of Labor-OSHA at (501) 324-6291 to schedule training.



IN THE WORKS

✉ In 2002, 3.0 percent of U.S. wage and salary workers who were paid hourly rates earned the Federal minimum wage of \$5.15 or less. The South recorded the highest percentage at 3.7 while the West registered the lowest share at 1.8 percent. West Virginia was the state with the highest proportion of hourly workers paid \$5.15 per hour or less (5.6 percent), and the state of Washington had the smallest proportion at 0.7 percent.

✉ Activities that volunteers in the U.S. reported engaging in during 2003 were: fundraising or selling items to raise money (28.8 percent); coaching, refereeing, tutoring, or teaching (28.6 percent); collecting, preparing, distributing, or serving food (24.9 percent); providing information, which would include being an usher, greeter, or minister (22.0 percent); and engaging in general labor (21.8 percent).

✉ The median number of weeks spent looking for work for those who experienced unemployment in 2002 was 15.5, up from 13.7 weeks the year before. Some 2.7 million individuals who had looked for a job did not work at all in 2002, up from 2.0 million a year earlier. Of the 14.1 million persons who worked during the year and also experienced unemployment, 22.8 percent had two or more spells of joblessness, down from 24.7 percent in 2001.

✉ The Bureau of Labor Statistics Quarterly Census of Employment and Wages program show that generally, the larger the establishment in which people worked, the more they were paid. One exception was the smallest establishments (those with fewer than five employees) who earned somewhat more per week than did those in slightly larger establishments (5 to 10 employees.)



LETTERS OF THE LABOR LAW

The Arkansas Department of Labor receives over a thousand e-mails each year with questions on various aspects of our state's labor laws. Daniel Faulkner, an attorney with the Arkansas Department of Labor, will clarify some of the more common areas of concern over the next few issues. The following is the first installment.

EMPLOYMENT-AT-WILL

Q: Does my employer have to give a reason to fire me?

Arkansas is an "employment-at-will" state. That means that unless an employee has a contract for a fixed period of time, an employer can end their relationship with an

employee at any time for any reason or for no reason. An employee may also quit at any time for any reason. If an employee has a contract with an employer for a certain amount of time, then the contract controls termination issues.

There are exceptions to the employment-at-will rule, such as discrimination and being terminated in violation of public policy. Discrimination is typically based on race, gender, national origin, age, or disability. If you feel that you are being discriminated against, you will need to contact the EEOC to file a claim. Their number is (501) 324-5060.

Employment-at-will is also subject to public policy. This would involve employees discharged for such things as: refusing to break the law, serving on jury duty, obeying a subpoena, or reporting a suspected violation of state or federal law. If this applies, you may have a wrongful termination suit with a private attorney.

Employment-at-will situations are very fact specific. You should consider speaking with a private attorney to get a final answer if you still feel you were wrongfully terminated.

This article is simply a summarization of Arkansas law, and should not be relied upon as legal authority or legal advice. If you would like more information, you may contact the Arkansas Department of Labor at (501) 682-4500.

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JAMES L. SALKELD, DIRECTOR

JEANETTE DONAHUE, EDITOR

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_____ Add my name

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Name and title _____

Organization _____

Mailing Address _____

City, State, Zip _____

E-mail Address _____



U.S. LABOR DEPARTMENT ENFORCEMENT/ COMPLIANCE NETS SUCCESS

U.S. Department of Labor annual enforcement statistics seem to indicate that the agency's efforts to protect workers are paying off. According to a recent report, American workers are safer and are receiving more back wages – including overtime pay – than in the past.

Wage and Hour Achievements:

- Total back wages collected for workers in FY 2003 increased by 21%, from \$175.6 million in

2002 to \$212.5 million – an 11-year record.

- The number of workers who received back wages increased by nearly 30% from 263,593 in 2002 to 342,358.

OSHA Achievements:

- In 2002 (the most recent data available) the number of workplace fatalities fell by 6.6% and the rate of fatal injuries in the workplace fell from 4.3 to 4.0 per 100,000 workers, both of which are the lowest figures ever recorded.
- In 2001, (the most recent year for which data is available) the occupational injury and illness rate dropped to 5.7 cases per 200 workers – the lowest level since the U.S. began collecting this information. As recently as 2000, the rate was 6.1 per 100 workers.
- Because of improved inspection targeting, violations cited by OSHA increased to 83,539 in 2003, a 7.6% increase over FY 2002. Nearly 60,000 of these were considered serious

violations, an increase of 11% over 2002.

- In FY 2003, OSHA conducted 39,817 inspections – a nearly 6% increase over FY 2002.

MSHA Achievements

- Fatalities in all mines decreased by 14% from FY 2002 to FY 2003, and by 31% between FY 2000 and FY 2003.
- Total mining injuries, based on preliminary data, fell by 15.6% from FY 2002 to FY 2003 and by 27% since FY 2000.

Employee Benefits Security Administration (EBSA)

- EBSA had record monetary results of more than \$1.4 billion in 2003 – a nearly 60% increase over the previous year.
- EBSA's Voluntary Fiduciary Correction Program (VFCP), which encourages self-correction of benefit violations, saw a 300 percent increase in applications in FY 2003 and more than \$8 million in restored assets to employee plans.